

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

VIBE CREDIT UNION,

Case No. 4:18-cv-13275

Plaintiff,

HON. STEPHEN J. MURPHY, III

v.

MARCUS DAVIS,

Defendant.

**ORDER DISMISSING CASE AND ENJOINING MARCUS DAVIS FROM
FILING FUTURE ACTIONS IN THIS DISTRICT WITHOUT LEAVE OF THE COURT**

On October 18, 2018, Davis filed a "notice of removal."¹ ECF 1. Marcus Davis appears to seek to proceed in forma pauperis. See *id.* at 3 ("Affidavit of Financial Statement IN FORMA PAUPERIS"). Although he has not complied with the procedural requirements of 28 U.S.C. § 1915(a), the Court will allow him to proceed in forma pauperis. Here, the plaintiff and defendant are reversed from a previous case, *Davis v. Vibe Credit Union*, 2:18-cv-13080, but the "notice of removal" here is substantially the same, if not identical, to the one in 2:18-cv-13080.

In 2:18-cv-13080, on October 1, 2018, Marcus Davis filed a "notice of removal" from Michigan's 48th District Court. 2:18-cv-13080, ECF 1. The Court construed the filing as a complaint and an application to proceed in forma pauperis. 2:18-cv-13080, ECF 3, PgID 64. The attachments to Davis's filing suggested that the filing was not actually a notice of removal, because the state court had already entered judgment. *Id.* On October

¹ The case was reassigned from Judge Matthew Leitman to the undersigned on October 26, 2018. ECF 4.

10, 2018, the Court dismissed the complaint. See *generally* 2:18-cv-13080, ECF 3. The Court explained that Davis could not appeal the state court's decision to federal court and that his new claims for relief were frivolous. *Id.* at 66.

Here, again, Davis's filing contains many deficiencies. For the same reasons articulated in the order dismissing 2:18-cv-13080, the case here must be dismissed. Davis cannot appeal the state court's decision to federal court and his new claims for relief are frivolous.

In addition to ordering dismissal of the case, the Court will order that Davis shall be enjoined from initiating any further actions in the District against any of the same parties,² unless he obtains the written permission of a judge in the District. District courts may enjoin vexatious litigants from filing further actions without first obtaining leave of court. *Feathers v. Chevron U.S.A., Inc.*, 141 F.3d 264, 269 (6th Cir. 1998). Davis's filing practices reveal a "history of repetitive or vexatious litigation." *Id.* (citation omitted). Eight days after his first "notice of removal" was dismissed, Davis filed the same "notice of removal" articulating no legal basis or factual support for his demands for relief. As a result, the Court will bar Davis from filing further actions in the District unless he obtains leave.

WHEREFORE, it is hereby **ORDERED** that the case is **DISMISSED** without prejudice.

IT IS FURTHER ORDERED that Marcus Davis is **ENJOINED** and **RESTRAINED** from filing any new complaints in the District without first petitioning for and obtaining leave from a judge in this District.

² The same parties means any combination of the following: Vibe Credit Union, the State of Michigan, Michigan's 48th Judicial District Court, Holzman Corkery PLLC, Charles J. Holzman, and Allen and Associates. See ECF 1, PgID 17.

IT IS FURTHER ORDERED that any future filing by Marcus Davis shall be captioned "Application Pursuant to Court Order Seeking Leave to File" and shall be accompanied by a copy of this Order. The Clerk's Office is directed to reject any filing by Davis that does not comply with these instructions. The district court will review Davis's filings and shall certify whether the filing has been made in good faith. If the district court determines that the filing is not made in good faith, the Clerk's Office is directed to return the material to Davis unfiled.

IT IS FURTHER ORDERED that the Clerk shall retain a copy of this Order and attach it to the file of any subsequent action filed by Marcus Davis.

IT IS FURTHER ORDERED that the Court certifies that any appeal from this decision would be frivolous and not in good faith and therefore, pursuant to 28 U.S.C. § 1915(a)(3), may not be taken in forma pauperis.

SO ORDERED.

s/ Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: October 31, 2018

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on October 31, 2018, by electronic and/or ordinary mail.

s/ David Parker
Case Manager